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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,031	02/07/2000	Kyung-Geun Lee	1293.1090/MDS	9630

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EXAMINER

HINDI, NABIL Z

ART UNIT PAPER NUMBER

2653

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/499,031

Applicant(s)

LEE

Examiner
Nabil Hindi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 5, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7, 9, 11-14, 19, 20, 25, 33, 35, 37, 38, 45, 47, and 55 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9, 11-14, 19, 20, 25, 33, 35, 37, 38, 45, 47, and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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In response to applicant's amendment dated June 05, 2002 and the interview summary dated July 02, 2002. The following action is taken:

The claims are rejected for the same reasons set forth in the previous office action mailed Dec. 26, 2001 repeated herein for applicant's convenience.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 9, 11-14, 19-20, 25, 33, 35, 37, 38, 45, 47 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Maeda et al (6069870) or Horikiri (5537373).

Either one of the references discloses the use of an optical disk recording and reproducing apparatus comprising a disk having wobbled land and grooves therein, each of the land or groove is out of phase with the land/groove, and each of the groove/land is in phase with the land/groove (as illustrated in fig 1A of Horikiri, the groove is out of phase and the land is in phase, and fig 2 of Maeda et al showing the in and out phase land and grooves), a wobbling signal detector (photo detection means elements 9-10 of Horikiri and element 33 fig 5A of Maeda et al), a wobbling

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signal determining means to determine either the light is tracking a land track or a groove track (fig 19 of Maeda et al and fig 1B of Horikiri, and tracking controller to track either track.

With respect to any of the dependent claims drawn to the land/groove phase different or being the same. Such limitation is present in each of the references since either one shows the use of an out of phase first area (land or groove) and in-phase second area (land or groove).

With respect to the dependent claims drawn to the address information (header) positioned at a boundary line between the land and groove tracks. Such limitation is well established in the art as acknowledged by applicant's own prior art and shown in fig 7A of Maeda et al.

With respect to the limitations of the dependent claims drawn to the signal processing to determine whether the light beam is tracking a land or groove track. The limitation is present in figs 4, 12 and 16 of Maeda et al and figs 1B and 2B of Horikiri.

Applicant's arguments filed June 05, 2002 have been fully considered but they are not persuasive. In response to applicant's argument drawn to the "convex" and "concave" wave. Such argument is not understood since a "sinusoidal wave" must include both of the waves and not only a portion of it. In response to applicant's arguments drawn to the prior art not showing or teaching the limitation "the wobble of groove tracks or individual land tracks are a first type of track which are out of phase with the wobbles of the next other type of track by a predetermined phase difference and the wobbles of the other type of tracks are in phase with the wobbles of the next type of tracks". It well established in the art that a disk have either a groove track or a land

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track therein, the use of a “next other type” or “other type of tracks” is not clearly defined in the claims. Does the limitation correspond to a newly disk structure?. Applicant’s arguments are centered around the prior art not showing such limitation. However, if the limitation “other type” and the “next other type” are the patentable feature of the claimed invention, then applicant must clearly define such limitation therefore eliminating any broad interpretation by the examiner. The limitation “the wobble of the groove tracks or individual land tracks are a first type of tracks” read on a land or groove labeled as a “first type”; “which are out of phase with the wobbles of the next other type of tracks by a predetermined phase difference” read on the wobbling of a land or groove track being out of phase with the adjacent (next) land or groove track; “and the wobble of the other type of tracks are in phase with the wobbles of the next first type of tracks” read on the wobble of the land or groove being in phase with the land or groove track. Applicant’s is respectfully asked to identify the figure reading on the claimed invention pointing out the “the other type” and the “next other type” as being claimed. Applicant provided nine pages of arguments merely drawn to what the prior art teaching and stated that page 10 line 22-25 and fig 5 provide support for the claimed invention. However fig 5 does not show the limitation “other type” and the “next other type” as being claimed. Fig 5 shows the use of land tracks being wobbled in phase and groove track being wobbled out of phase. As shown in fig 2 of Maeda et al showing an in phase first type of tracks and out of phase second type of tracks and the same is shown in fig 1A of Horikiri. Such limitation if having an in phase first tracks and out of phase

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second tracks is shown in the reference WO98/13823 cited in the IDS and the reference Van Den Enden et al (6181658) figs 3-4b showing a 180 degree phase difference cited as pertinent art.

This is an RCE of applicant's earlier Application No. 09/499031. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to NABIL.HINDI at
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2653